

The Telecommunications Excise Tax is imposed upon the act or privilege of originating or receiving intrastate or interstate telecommunications in Illinois at the rate of 7% of the gross charges for such telecommunications purchased at retail from retailers. See 86 Ill. Adm. Code 495. (This is a GIL).

July 17, 2000

Dear Xxxxx:

This letter is in response to your letter received April 10, 2000. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), which can be found on the Department's website at <http://www.revenue.state.il.us/legalinformation/regs/part1200>.

In your letter, you have stated and made inquiry as follows:

Thank you for your quick response to my fax of January 21, 2000 (copy enclosed). We have recently come across some additional facts regarding item number 4.

The customer pays the termination charge to the retailer, not to the service provider. In turn, the retailer must reimburse the service provider for the commission paid to the retailer for selling the cellular service. The commission repayment is reduced pro-rata based on the number of months that the customer paid for service. Is the termination charge subject to sales and/or use tax? If so, what is the taxable amount?

You may mail, fax, or e-mail your response to me.

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Pursuant to Section 495.100(a), "gross charge" means the amount paid for the act or privilege of originating or receiving telecommunications in this State and for all services and equipment provided in connection therewith by a retailer valued in money, whether paid in money or otherwise, including cash credits, services and property of every kind or nature, and shall be determined without any deduction on account of the cost of such telecommunications, the cost of material used, labor or service cost or any other expense whatsoever.

July 17, 2000

Because of the definition of gross charges, the termination charge would generally be included in taxable gross charges under the Telecommunications Excise Tax. Who is responsible for the payment of tax on the charge is hard to determine from the facts set forth in your letter. It is also not clear how the reduction in commission is offset by the charge collected by the retailer. Therefore, we are unable to rule on the issue. We would need to have the information required by a Private Letter Ruling.

I hope this information is helpful. The Department of Revenue maintains a website, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Melanie A. Jarvis
Associate Counsel

MAJ:msk

Enc.